

HONOURABLE SMT.JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO:1413 OF 2000

Dated:10.8.2005

Between:

K.Paparao, s/o K.Suranna, 43 years, Drawing Teacher, Z.P.High school, Sarpavaram,
Kakinada, E.G. Dist.

...Appellant.

And

1.The District Educational Officer, E.G. District, Kakinada & two others.

...Respondents.

-

-

-

-

JUDGMENT (Per the Honourable Smt. Justice T.Meena Kumari.)

This writ appeal is filed by the appellant aggrieved by the order of the learned single Judge in W.P.No:7436 of 2000, dated 25.8.2000, under which the learned single Judge dismissed the writ petition with the observations as indicated therein

The appellant is the writ petitioner. He filed the writ petition seeking to declare the action of the respondents in not paying the arrears of salary to the petitioner for the period (illegal termination by 3rd respondent) from 23.4.1982 to 25.8.1982 and from 15.10.1982 to 21.9.1984 as per the Government Memo No:2947/K1/83-5, dated 13.3.1984 as illegal and arbitrary and to direct the respondents to pay the arrears of salary for the above said period along with all consequential benefits. The learned single Judge having observed that the petition filed after 16 years, is liable to be dismissed on the laches also, dismissed the same. Having aggrieved by the same, the present appeal is preferred by the writ petitioner.

Heard the learned counsel.

We have perused the material available on record and the order impugned.

It is observed in the order of the learned single Judge that when the relief which is available to a party shall be availed along with all the reliefs in the same writ petition, but not by way of instalments and apart from that, the present writ petition has been preferred after lapse of 16 years. In response to the same, it is contended by the learned counsel for the petitioner that the earlier writ petition in W.P.No:14651 of 1989 was filed by the petitioner seeking to count the seniority from the date of appointment whereas the present writ petition is filed for payment of salaries for the period he was illegally terminated by the management. It is further contended that the petitioner has been continuously making representations to the authorities with a pond hope that his case will be considered for payment of the salaries and therefore, he could not file the present writ petition immediately.

We have perused the memo of the Government in 2947/K1/83-5, dated 13.3.1984 wherein it is apparent that the Government have also considered the question of payment of salaries to the teachers so removed by the management during the break period and directed that such of the teachers mentioned in para 1 above whose posts were admitted to grant in aid should be paid salaries directly by the District Educational Officers concerned for the break period i.e., from the date of

their ousting till the date of reinstatement in the same institution or in another institution and the grant to this extent should be withheld in respect of the institution concerned.

In the peculiar circumstances of the case and in view of the memo of the Government, on which the claim of the petitioner is relief upon, We are of the considered view that filing of this writ petition does not amount to multiplicity of the proceedings attracting the provisions of order 2 rule 2 C.P.C. Apart from that, the delay in filing the writ petition cannot be construed as a latch considering the fact that the petitioner might have waited with a pond hope that his case will be considered by the authorities. Therefore, the order of the learned single Judge is liable to be set aside.

There is no dispute as to the fact that the services of the petitioner were terminated and he was kept out of service for the period he claimed in the writ petition. In this background of the matter and in view of the memo of the Government dated 13.3.1984, without expressing any opinion on the merits of the case, We deem it appropriate to direct the respondents to act upon the memo of the Government, dated 13.3.1984. At this stage, it is submitted by the learned G.P. for School Education that in case of payment of salaries in question to the petitioner by the District Educational Officer, that has to be deducted from the grant in respect of the institution in question. It is made clear that the amount that will be paid to the petitioner towards the salary in question, can be deducted or withheld from the grant in respect of the institution in question.

Subject to the above directions, this writ appeal is disposed of.

(T.MEENAKUMARI, J)

10th August, 2005

(P.LAKSHMANA REDDY, J)

Gurc/RKK.

HONOURABLE SMT. JUSTICE T.MEENAKUMARI
&
HONOURABLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL No:1413 of 2000

(judgment delivered by Smt.Justice T.MeenaKumari)

10th August, 2005